

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

LARRY E. CHARLES and	:	Case No. 19-10095-TPA
SHIRLEY M. CHARLES,	:	Chapter 12
<i>Debtors.</i>	:	Related to Doc. 51, 65, 66, 82
	:	Hearing: Aug. 22, 2019 at 11:30 A.M.

ORDER

On August 7, 2019 a Pre-Confirmation hearing was held on the Debtor's *Chapter 12 Plan Dated May 16, 2019* (Doc. 51), *Disclosure Statement to Accompany Plan Dated May 16, 2019* (Doc. 57), *Summary of Chapter 12 Plan Dated May 16, 2019* (Doc. 58), *Order to Show Cause* ("OTSC") (Doc. 97), as well as objections filed by CNH Industrial Capital, LLC, Fairport Asset Management, II, LLC, and the United States Farm Service Agency. All objecting Creditors expressed concerned over the feasibility of the Plan and treatment of their claims. The Court shares the concerns over feasibility, especially in light of the inadequate financial information provided by the Debtor up to this point. The Debtor's Projections, which are lacking and the subject of the *OTSC*, only project \$1,800 per month. However, the Debtor's Plan payment under the current proposed plan is \$3,800 per month, and the Debtor reports that a wage attachment is in place that has been remitting that amount for two months. Based on the *Monthly Operating Reports, Historical Cash Flow Statement, and Projections*, the Court does not see where these funds are coming from.

Furthermore, the objecting Creditors took issue with the current treatment of their claims in the Debtor's Plan, although indicated agreement to attending a conciliation to attempt to deal with the discrepancies. However, even if the Creditor's objections are resolved, this will likely result in an increase in the proposed Plan payment, which as stated above, and with the Debtor's two prior failed Chapter 12 cases taken into account, the Court does not see how it will be feasible. Nevertheless, the Court is willing to allow a short opportunity for the Debtor to get

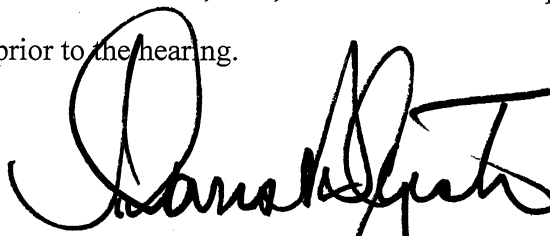
its Plan documents in order and attempt to resolve the issues with Creditors. No further extensions will be allowed and failure to file the *Amended Plan* and related documents in perfect form, as required below, will result in dismissal of the case without further notice or hearing. Therefore,

AND NOW, this 12th day of **August, 2019**, for the reasons stated above and at the August 7th hearing, it is hereby **ORDERED, ADJUDGED, and DECREED** that:

(1) The *Chapter 12 Plan Dated May 16, 2019* (Doc. 51), *Disclosure Statement to Accompany Plan Dated May 16, 2019* (Doc. 57), and *Summary of Chapter 12 Plan Dated May 16, 2019* (Doc. 58) are **DISMISSED** without prejudice.

(2) **On or before August 16, 2019** the Debtor shall file an **Amended Chapter 12 Plan, Amended Disclosure Statement, and Amended Plan Summary**. The *Amended Disclosure Statement* shall include amended projections that include a breakdown of all sources of income and all expenses for the next twelve months and account for monthly fluctuations of income. Failure to comply with this Paragraph will result in dismissal of the above-captioned case without further notice or hearing.

(3) The Pre-Confirmation hearing is continued to **August 22, 2019 at 11:30 A.M.** in the Erie Bankruptcy Courtroom, 17 South Park Row, Erie, PA16501. The Chapter 12 Trustee is directed to schedule a Conciliation prior to the hearing.



Thomas P. Agresti, Judge
United States Bankruptcy Court

Case administrator to serve:

Brian Thompson, Esq.

Jill Locnikar, Esq.

David Scott, Esq.

Kelly Neal, Esq.

Ronda Winnecour, Esq.

Debtors

Robert A. Adams, Esq.

Imaged Certificate of Notice Page 3 of 3

United States Bankruptcy Court
Western District of PennsylvaniaIn re:
Larry E. Charles
Shirley M. Charles
DebtorsCase No. 19-10095-TPA
Chapter 12**CERTIFICATE OF NOTICE**

District/off: 0315-1

User: lfin
Form ID: pdf900Page 1 of 1
Total Noticed: 1

Date Rcvd: Aug 12, 2019

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Aug 14, 2019.

db/jdb +Larry E. Charles, Shirley M. Charles, 1407 Deckards Run Road, Cochranton, PA 16314-9343

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Aug 14, 2019

Signature: /s/Joseph Speetjens**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on August 12, 2019 at the address(es) listed below:

Brian C. Thompson on behalf of Debtor Larry E. Charles bthompson@ThompsonAttorney.com, blemon@thompsonattorney.com;mgillespie@thompsonattorney.com;bthompson@ecf.courtdrive.com;jgorze@thompsonattorney.com;bwamsley@thompsonattorney.com

Brian C. Thompson on behalf of Joint Debtor Shirley M. Charles bthompson@ThompsonAttorney.com, blemon@thompsonattorney.com;mgillespie@thompsonattorney.com;bthompson@ecf.courtdrive.com;jgorze@thompsonattorney.com;bwamsley@thompsonattorney.com

Christopher P. Schueller on behalf of Creditor Fairport Asset Management II, LLC successor to Commerical Loan Investment VII, LLC christopher.schueller@bipc.com, donna.curcio@bipc.com

Christopher P. Schueller on behalf of Creditor Commercial Loan Investment VII, LLC christopher.schueller@bipc.com, donna.curcio@bipc.com

David A. Scott on behalf of Creditor CNH Industrial Capital America LLC scott@lg-law.com

James Warmbrodt on behalf of Creditor DITECH FINANCIAL LLC bkgrou@kmlawgroup.com

Jill Locnikar on behalf of Creditor United States of America acting through Farm Service Agency jill.locnikar@usdoj.gov, patricia.fitzgerald@usdoj.gov;caseview.ecf@usdoj.gov;Marla.Kirkland@usdoj.gov

Kelly M. Neal on behalf of Creditor Commercial Loan Investment VII, LLC kelly.neal@bipc.com, donna.curcio@bipc.com

Kelly M. Neal on behalf of Creditor Fairport Asset Management II, LLC successor to Commerical Loan Investment VII, LLC kelly.neal@bipc.com, donna.curcio@bipc.com

Office of the United States Trustee ustpreion03.pi.ecf@usdoj.gov

Ronda J. Winnecour cmecf@chapter13trusteewdpa.com

TOTAL: 11